

CUSTOMER AGREEMENT

THIS AGREEMENT ("Agreement") is made on ### 2018.

BETWEEN

- (1) 3equals1 design Limited, a company incorporated in the United Kingdom with Company number 07452749 and whose registered office is at Orange Studio, Old Paradise Yard, 20 Carlisle Road, London, England, SE1 7LG with registered VAT number [NUMBER] (the "Company"); and
- (2) ## Ltd, a company incorporated in England with Company number ## and whose business address is at ## ("Customer"). [This may be an individual or unlimited company but the procedure is the same, identifying name and most recent address.]

Recitals

These are the terms and conditions on which the Company supplies its Services to the Customer. Please read all of these terms carefully before you submit an order to the Company. These terms tell you who we are, how we will provide services to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms, please contact us to discuss at the above address or via email: info@3equals1design.co.uk.

If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

The Company will undertake the provision of "Services", to you, the Customer, as defined and set out in the Schedules attached, including the Scope of Work (Schedule A), during the term of this Agreement and provide any additional project services in consideration for payment of the fees and charges as defined and set out in the Fee Schedule (Schedule B) attached which will be in accordance with the terms and conditions set out in this Agreement.

Acceptance of these terms and conditions will constitute deemed acceptance of all the Company's terms and conditions including any contained in the initial quote and proposal for the current job delivered to the Customer which are incorporated into this Agreement. **The Customer's attention is particularly drawn to clauses 88-94 inclusive below on limitation of liability and clauses 54-60 and Schedule C with regards to your data protection.**

The terms of this Agreement shall apply to all contracts for the supply of Services by the Company to the Customer to the exclusion of all other terms and conditions including any terms and conditions which the Customer may purport to apply whether orally or under any purchase order, confirmation order or similar document.

Acceptance of the Order

1. The Company's acceptance of the Customer's order will take place when it writes to the Customer to accept it, at which point an Agreement will come into existence between the Company and the Customer.
2. If the Company is unable to accept the Customer's order the Company will inform the Customer of this in writing. This might be because of unexpected limits on the Company's resources which it could not reasonably plan for, because a credit reference obtained for the Customer does not meet the Company's minimum requirements, because we have identified an error in the price or description of the Service or because the Company is unable to meet a delivery deadline you have specified.

Summary of the Customer's key legal rights – a Consumer

3. This is a summary of the Customer's key legal rights where it is a Consumer rather than a Business. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.adviceguide.org.uk or call 03454 04 05 06.

The Consumer Rights Act 2015 allows that:

- (i) The Customer can ask the Company to repeat or fix a service if it is not carried out with reasonable care and skill, or get some money back if the Company cannot fix it.
- (ii) if the Customer has not agreed a price upfront, what the Customer is asked to pay must be reasonable.
- (iii) if the Customer has not agreed a time in which the Service is to be performed upfront, it must be carried out within a reasonable time.

Term

4. The "**Term**" of this Agreement is deemed to have commenced on the date hereof ("**Commencement Date**") and shall continue until terminated by either party giving the other thirty (30) days written notice of termination provided always that all fees and accrued amounts are paid prior to the end of the thirty (30) day written notice period. The estimated completion date for the services is as told to you during the order process.

Fees and charges

5. Unless otherwise set out in this Agreement, the Company will invoice the Customer in advance for the first 50% of the Fees for the Services before the Company starts providing them as set out in Schedule B together with Value Added Tax, any other relevant duties or taxes upon the supply of goods or services at the rate prescribed by law.

6. The Company will invoice the Customer for the balance of the Fees for the Services when they have been completed or will invoice the Customer weekly in advance for the Services until the Services are completed in accordance with Schedule B.
7. The Customer agrees to pay such invoices within fourteen (14) days of issue unless otherwise agreed.
8. If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the Services in full before the change in the rate of VAT takes effect.
9. Where the Services are to be provided in stages, accounts will be submitted on completion of each stage.
10. If after 1 month of being sent any work that requires Customer approval to enable the Company to proceed to the next stage, for example, drawings, plans or designs, which has not been returned with comments, full payment will be required unless otherwise discussed.
11. For any design Services, any planning or building regulation applications, if applicable, will not be submitted until payment has been received.
12. In addition to the fees, the following expenses will be charged [at net cost]: for example, the cost of printing, reproduction or purchase of all documents, drawings, maps, models, photographs etc.; hotel and travelling expenses; the cost of postage, telephone, facsimile etc. as necessary.
13. Where expenses have not been otherwise agreed the following rates apply:
 - Mileage @ £0.60/ mile
 - Plan printing
 - A1 - £6.00 each
 - A2 - £4.20 each
 - A3 - £3.45 each
 - A4 - £1.50 each
 - Colour printing
 - A3 - £4.20 each
 - A4 - £2.50 each
14. Any disbursements made on the Customer's behalf, such as payments to the local authority for planning submissions of Building Regulations approval, will be charged at the net cost.

15. Please note; when the Company gives an estimate rather than a quote, it can only be an indication of the charges that the Customer is likely to incur and should not be regarded as agreed for the transaction. Should any circumstances arise where an estimate is likely to be exceeded, the situation will be discussed with the Customer at the earliest possible stage.
16. Where hourly rates have not otherwise been agreed, the Company's published hourly rates apply.
17. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, fees schedule, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
18. **"Project Services"** means those additional services to be agreed between the parties that may become necessary or are incidental to the items listed in Schedule A attached to this Agreement for which an extra fee will become chargeable to the Customer. In the event that additional project services are to be provided by the Company then the Company and the Customer will agree in writing the amount of those additional fees in advance of any work being undertaken.
19. The Company shall be entitled to increase the fees and charges under this Agreement having regard to its cost changes at any time to take effect for the period starting 30 days after written notice of such change.
20. The Company shall be entitled to additional fees for any emergency work, including additional site visits or work carried out outside of office hours, required by the Customer on the same terms as in Schedule B and as agreed in advance of attendance on the Customer by both parties.
21. Before implementing any changes required to the Services or an approved design, the basis for any consequential change to the fees or expenses will be agreed with the Customer.
22. Where there are sums due to The Company from the Customer which have not been paid on the due date, The Company will exercise its statutory rights to claim interest (currently at 8.5% over the current Bank of England base rate) on the gross amount outstanding and compensation for recovery costs including any legal or court costs under the late payment legislation if money owed is not received by the agreed date and under the terms of this Agreement which to avoid any doubt will be deemed to include any terms contained in the relevant invoice/s. Alternatively The Company will be entitled under this Agreement to compound interest at the rate of 4% over the daily base rate of the Bank of England if this is more than the current statutory entitlement.

23. Where there are sums due and outstanding to the Company from the Customer and legal title has not yet passed accordingly to the Customer in any Services, the Company reserves the right to disable, shut down or withhold any of the Services remotely without notice to the Customer.

Variation of Terms

24. If it becomes necessary to vary the Services, the parties can discuss how this might be arranged.
25. If the Customer wishes to make a change to the Services please contact the Company immediately in writing. The Company will let the Customer know if the change is possible. If it is possible the Company will let the Customer know about any changes to the price of the Services, their timing or anything else which would be necessary as a result of the requested change and ask the Customer to confirm whether it wishes to go ahead with the change.
26. The Company may change the services and will inform the Customer as soon as practicable:
- (a) to reflect changes in relevant laws and regulatory requirements, for example planning regulations; and/or
 - (b) to implement minor technical adjustments and improvements, for example to address a security threat. These changes will not affect the Customer's use of the Services.
27. The Customer will be notified of more significant changes to the Services. The Customer may then contact the Company to end the Agreement and receive a full refund before the changes take effect.
28. The Company may update or require that the Customer update digital content, provided that the digital content shall always match the description of it provided to the Customer before the Customer bought it.
29. If it should prove necessary to seek advice from other consultants or specialists, the Company will advise the Customer at the appropriate time about such appointments and the Fees entailed.
30. Any request by the Customer to amend, vary or change the Services during the Term must be agreed in writing by a duly authorised representative of Company and any adjustment to Fees as a consequence will not be deemed to apply to the following invoice until such adjustment is agreed in writing by Company and the Customer must sign to confirm any such amendments.
31. No agent, servant or sub-contractor of the Customer has any authority to alter or vary these terms and conditions in any way.

The Company's obligations to the Customer

32. The Company shall exercise all reasonable care, skill and diligence to be expected of a qualified and experienced member of the Company's profession in the performance of the Services provided under this Agreement undertaking works similar in scope and character and as required by any applicable laws and regulations;
33. The Company shall take reasonable steps to ensure that all of its personnel and consultants engaged under this Agreement have the necessary insurances, skills, expertise and diligence to undertake such work and will conform to the professional standards generally observed in the industry for similar services;
34. If the Company fails to comply with these terms in delivering the Services, it will be responsible for loss or damage suffered by the Customer that is a foreseeable result of the Company breaking this Agreement or the Company's failing to use reasonable care and skill, but the Company is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Agreement was made, both parties knew it might happen, for example, if the Customer discussed it with the Company during the sales process.
35. The Company shall comply with the provisions in this Agreement relating to Confidential Information and data protection.
36. The Company operates with Professional Indemnity Insurance cover in place.
37. The Company shall on written request of the Customer provide evidence in the form of a cover note that the insurance is properly maintained.
38. If the Company's performance of the Services is affected by an event outside its control then it will contact the Customer as soon as possible to let it know and take steps to minimise the effect of the delay. Provided the Company does this it will not be liable for delays caused by the event but if there is a risk of substantial delay the Customer may contact the Company to end the Agreement and receive a refund for any services paid for but not received.
39. If the Customer ends the Agreement for a reason set out at (a) to (e) below the Agreement will end immediately and the Company will refund the Customer in full for any services which have not been provided or have not been properly provided. The relevant reasons are:
 - (a) The Company has told the Customer about an upcoming change to the Services or these terms which the Customer does not agree to;
 - (b) The Company has told the Customer about an error in the price or description of the Services the Customer has ordered and the Customer does not wish to proceed;

- (c) There is a risk the Services may be significantly delayed because of events outside of the Company's control;
- (d) The Company suspends the services for technical reasons, or notifies the Customer it is going to suspend them for technical reasons, in each case for a period of more than eight (8) weeks; or
- (e) The Customer has a legal right to end the Agreement because of something fundamental that the Company has done wrong.

Confidential Information

- 40. During and after the term of this Agreement, the parties agree to keep all confidential information ("**Confidential Information**") in relation to the business of the other confidential. Confidential Information means all information whether in written, electronic, oral or any other form, including that relating to systems, operations, methodologies, technology, plans, designs, intentions, market opportunities, potential and actual customers and/or clients, surveys, know-how, trade secrets, financial information and business and/or personal affairs and any other information which is indicated to be confidential or which could reasonably be interpreted to be confidential.
- 41. The parties acknowledge that Confidential Information is valuable and unique and that disclosure in breach of this confidentiality provision will result in irreparable injury to its owner. The parties agree that, in the event of a breach or threatened breach of this clause, the non-breaching party, in addition to the recovery of any damages, shall be entitled to an injunction prohibiting any such breach.
- 42. Information is not Confidential Information to the extent that it: i) has been published other than through a breach of this Agreement; ii) is already in the possession of the non-owner party prior to disclosure; iii) has been independently developed; or iv) is information which a party is required by law to disclose.
- 43. Confidential Information shall only be provided to those employees, consultants or agents that have a need-to-know in order to deliver the Services and each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees, consultants or agents in violation of the terms of this Agreement.
- 44. At any time upon written request, the recipient of Confidential Information shall return or destroy all written copies of Confidential Information and portions thereof, and certify such return or destruction. Upon termination, neither party shall retain any copies, extracts, or other reproductions, in whole or in part, of Confidential Information.
- 45. All papers, designs and documents the Company produce in the course of the Agreement will remain the property of the Company apart from where specifically provided to the Customer to keep.

46. The results of the Services may be freely published by the Customer but the Customer will not make any reference to the Company without obtaining prior approval in writing of each reference in its context, which approval shall not be unreasonably withheld.
47. The Company will be allowed to use the Services carried out under this Agreement with the Customer as a case study for the purposes of any academic article, publicity brochure, website or any other form of marketing or study opportunity as may arise. The Company undertake not to publicise the Confidential Information in any format.
48. The Company may include the statement "Designed by 3equals1 Design Ltd" or in any academic or marketing literature on any images of the Customer's project.

Intellectual Property

49. The Company shall where applicable grant to the Customer a non-exclusive license to use the Services for the purposes of the Customer in the direct field of application for which the Services were carried out. The exact terms of any license will be agreed through good faith negotiations between the Company and the Customer.
50. All copyright, design right, trade mark rights, patent rights and rights in know-how and other like rights including moral rights whether registered or unregistered which subsist now or in the future in the Services, articles, blogs, documents, drawings, specifications, designs, programmes or any other material prepared by the Company whether readable by humans or by machines devised or created by the Company or its employees or consultants shall vest in and shall belong to the Company free of any interest of any third party.
51. The Customer shall not be entitled and agrees not to manufacture, reproduce, copy, simulate, emulate, modify, adapt, recreate, or use in original or translated from the Services and any part thereof for any purpose other than that for which they were furnished, or do any other act inconsistent with the Company's ownership of Intellectual Property rights in clause 51 above.
52. The Customer shall indemnify the Company against all claims whatsoever for damages and costs and against all liability in respect of any infringement of patent or other intellectual property rights resulting from compliance with the Customer's instructions express or implied and the Customer will indemnify the Company against any liability in respect thereof and shall pay all costs and expenses which may be incurred by the Company in reference to any such claim. The indemnity shall extend to any amount paid on a legal advice in respect of any such claim.

53. The Customer warrants that it has obtained all necessary rights, permissions and licenses for the use by the Company and the Customer of all and any websites, drawings, tools, designs, layouts, patterns or specifications supplied to the Company and agrees to indemnify the Company fully and defend at its own expense the Company against all costs and losses whatsoever incurred by it, its employees, consultants, servants or agents as a result of any claim made against the Company or any of them for infringement of any Intellectual Property rights belonging to a third party.

Data Protection

54. **Data Protection Legislation means** (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
55. Both parties will comply with all applicable requirements of the Data Protection Legislation. These data protection clauses 54 to 60 are in addition to, and do not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
56. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Provider is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation). Schedule C sets out the scope, nature and purpose of processing by the Provider, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject.
57. Without prejudice to the generality of clause 55, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Provider for the duration and purposes of this agreement.
58. Without prejudice to the generality of clause 55, the Provider shall, in relation to any Personal Data processed in connection with the performance by the Provider of its obligations under this agreement:
- (a) process that Personal Data only on the written instructions of the Customer unless the Provider is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Provider to process Personal Data (**Applicable Laws**). Where the Provider is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Provider shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Provider from so notifying the Customer;

- (b)** ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c)** ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d)** not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

 - (i)** the Customer or the Provider has provided appropriate safeguards in relation to the transfer;
 - (ii)** the data subject has enforceable rights and effective legal remedies;
 - (iii)** the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv)** the Provider complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e)** assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f)** notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (g)** at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and

(h) maintain complete and accurate records and information to demonstrate its compliance with these clauses 54-60.

59. The Customer does not consent to the Provider appointing any third party processor of Personal Data under this agreement except with the Customer's explicit written consent. The Customer's Personal Data may be passed to third parties which are under contract with the Company to provide services to the Customer on the Company's behalf. In such an event the Personal Data shared is only that necessary to fulfil the service requirement under the terms of the contract with the Company. Within such a contract an express condition will be that the third party keeps any data secure and that it is not to use in any other way, such data, for their own or other parties' purposes. As between the Customer and the Provider, the Provider shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 59.

60. Either party may, at any time on not less than 30 days' notice, revise these clauses 54-60 by replacing them with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

Customer's Obligations

61. The Customer acknowledges that the Company's ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of any information and data the Customer provides to the Company. Accordingly, the Customer shall do the following:

62. The Customer shall upon becoming aware of any fault in the Services immediately notify the Company of that fault.

63. The Customer shall provide and make available to the Company all relevant information, photographs, data, measurements and documentation and any systems data reasonably required by the Company for the performance of the Company's obligations under this Agreement relating to the Services and shall ensure the co-operation of staff, employees, agents and/or family members as applicable;

64. The Customer shall ensure that all necessary plans (unless to be provided by the Company) are provided to the Company to allow the Company to provide the Services;

65. If the Customer does not, within a reasonable time of being asked for it, provide the Company with the information requested in clauses 61 and 62 above, or it provides the Company with incomplete or incorrect information, the Company may either end the Agreement or make an additional charge of a reasonable sum to compensate the Company for any extra work that is required as a result. The Company will not be responsible for providing the

Services late or not providing any part of them if this is caused by the Customer not giving the Company the information it requires within a reasonable time of being asked for it.

66. The Customer shall be responsible for the accuracy and completeness of any content and/or materials provided to the Company for its design Services and particularly ensure that any content and/or materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights (**Inappropriate Content**);
67. The Customer shall indemnify the Company against all damages, losses and expenses arising as a result of any action or claim that the contents/materials referred to in clause 66 above constitute Inappropriate Content.
68. The Customer shall ensure it makes and retains regular verified backups of all data stored on its systems. The Customer accepts that any loss of data through failure to back up the data stored on the equipment or through incorrect use of the equipment is its own responsibility and will not in any way effect the payment of fees owed to the Company and the Customer acknowledges that it should take out such comprehensive data loss insurance protection as reasonably may be considered prudent in the best interests of the Customer.
69. The Customer shall ensure that no alterations, adjustments, interference, repairs, alterations to system software or maintenance shall be carried out in relation to the Services provided other than by persons employed or authorised by the Company, without the written consent of the Company, such consent not to be unreasonably withheld.
70. The Customer shall have the same responsibility for the safety and well-being of any agent, consultant or employee of the Company upon the Customer's premises as that of an employee of the Customer or any visitor invited onto the premises and the Customer will indemnify the Company from and against all loss and liability of the Company arising directly or indirectly from any act or incident thereon howsoever occasioned.
71. The Customer shall arrange and maintain comprehensive insurance against all normal risks to the premises, and to all persons on the premises and shall maintain all policies of insurance with a reputable insurance company covering all the matters subject to the Customer's indemnities or compensation obligations under this Agreement and shall produce evidence of the policy document if so requested by the Company.
72. The Customer warrants that the Services and/or internet connections will be maintained in good working and serviceable order and that all faults and defects occurring will immediately be notified to the Company.
73. The Customer agrees to abide by all applicable laws, regulations and codes of conduct and ensure that any material uploaded or distributed or stored by the Customer does not infringe the rights of others.

74. The Customer shall ensure that environmental and power supply conditions suitable for the Services are maintained.
75. Where a site visit is required, the Customer shall arrange full and safe access to the area and/or equipment required to provide the Services (together with adequate lighting, heating and ventilation as well as suitable electrical current for testing where applicable) and shall provide suitable working facilities, telephone and other communications and secure storage as may be required by the Company.
76. The Company shall have the right to visit the Customer's site or property when necessary to carry out the Services and to inspect any equipment or systems relating to the performance of the Services at any time during Normal Business Hours (9am to 5pm Monday to Friday) by appointment with the Customer; such appointment not to be unreasonably withheld or delayed.
77. The Customer shall ensure that the Company is given reasonable notice to attend any relevant meetings or site visits. While the Company would appreciate as long a period as possible, such notice should ideally not be less than 24 hours.
78. The Customer shall notify the Company immediately if it becomes subject to administration, insolvency or bankruptcy.
79. If the Customer has asked the Company to provide the Services at its property and does not allow the Company access to its property as arranged (and does not have a good reason for this) the Company may charge the Customer additional costs incurred by the Company as a result. If, despite the Company's reasonable efforts, it is unable to contact the Customer or re-arrange access to the property the Company may terminate the Agreement.

Exclusions

80. The Company shall not, in any way, be responsible for any work carried out by the Customer before the Company agrees to act and provide the Services;
81. Except as specifically identified below the Services provided by the Company under this Agreement shall not include maintenance or repair or replacement of any electrical or telephonic or other communications work or equipment or accessories connected to or external to the provision of the Services;
82. The Company shall not be responsible for loss, corruption or damage caused to the Customer's website or any of the Customer's data due to the use of incompatible, damaged, faulty or uncertified accessories or media or the failure of the proper supply of electricity thereto howsoever occasioned; nor

83. The Company will not be responsible for any consequential loss, liability or loss of profit, whether resulting from the loss of data or other information held by the Company or otherwise howsoever caused;
84. The Company will not be responsible for damage caused by acts or omissions of the Customer or its employees or agents or third parties who lawfully or unlawfully gain access to the Customer's systems or part thereof or otherwise interfere with the Company's design systems that has any impact on the Services the Company provide under this Agreement, such excluded damage to include damage or loss caused by a computer virus and/or failure to follow any operating procedure.
85. The Company will not be responsible for the costs of replacement loan equipment, furniture or similar or other expenses incurred as a result of the breakdown or failure of the Services.
86. The Company will not be responsible for the breach of any firewall howsoever occasioned.
87. The Company shall not be responsible for supervising the work of any contractor or any sub-contractors, and is not liable for their performance or the quality of their work.

LIMITATION OF LIABILITY – clauses 88 to 94 shall survive the termination of this Agreement

88. Nothing in this Agreement shall exclude or in any way limit either party's liability for fraud or for death or personal injury caused by its negligence or any other liability to the extent such liability may not be excluded or limited as a matter of law.
89. The parties have discussed any potential risks associated with the Customer's Services and agree that the **maximum aggregate liability** to you for loss or damage, without affecting other limitation or exclusion clauses, under or in connection with this agreement whether in contract, tort (including negligence) or otherwise, will in no circumstances exceed the total Fees paid or payable to the Company by the Customer in the preceding one (1) month period.
90. Subject to clause 89, the Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss or damage to property or any indirect, incidental, special or consequential loss and/or damages arising under or in connection with the Agreement howsoever caused even if foreseeable, foreseen or known notwithstanding any failure of the Services;
91. The Company's liability shall be calculated on the basis that its liability shall be limited to such proportion which it would be just and equitable to require it to pay having regard to its responsibility and on the basis that all other

interested parties in the Agreement, including but not limited to other consultants, contractors, sub-contractors, shall be deemed to have provided contractual undertakings to the Customer in respect of the performance of their services in connection with the Services and shall be deemed to have paid to the Customer such proportion which it would be just and equitable for them to pay having regard to the extent of their responsibility.

92. Except as set out in this Agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
93. In no event shall the Company be liable for any loss or damage which is not subject to an indemnity under the terms of its professional indemnity insurance policy.
94. The Company and its employees, consultants and agents will not accept any bribes or incentives whether in the UK or abroad in accordance with the Bribery Act 2011.

Non-Solicitation

95. The Customer agrees that it shall not without the Company's prior written consent directly or indirectly solicit or offer employment or engagement to any Key Employee or Consultant who is at the time of such action or was during a period of 12 months immediately preceding such action involved in the provision of any of the Services.

Suspension

96. The Customer may, at any time, suspend performance of all or part of the Services by giving written notice to the Company. The Company shall resume performance of the Services as soon as reasonably practicable after receiving a written notice to do so from the Customer.
97. If the Customer fails to pay in full the notified sum to the Company under this Agreement by the final date for payment; and the Customer has not given the Company a pay less notice, the Company may suspend the performance of any or all of its Services and other obligations under this Agreement by giving not less than seven days' notice to the Customer of its intention to do so and stating the ground or grounds on which it intends to suspend performance.
98. In the event that the Company may have to suspend the Services to:
 - (a) deal with technical problems or make minor technical changes;
 - (b) update the Services to reflect changes in relevant laws and regulatory requirements;
 - (c) make changes to the Services as requested by the Customer or notified by the Company to the Customer

99. The Company will contact the Customer in advance to tell the Customer that it will be suspending the Services, unless the problem is urgent or an emergency. If the Company has to suspend the Services for longer than six (6) weeks the Company will adjust the price so that the Customer does not pay for Services while they are suspended. The Customer may contact the Company to end the Agreement if the Company suspends the Services, or tell you the Company is going to suspend them, in each case for a period of more than eight (8) weeks and we will refund any sums you have paid in advance for Services not provided to you.
100. In the event of a suspension in accordance with this Agreement, the Customer shall pay the Company a reasonable amount in respect of costs and expenses reasonably incurred by the Company; and such payment shall be the Company' sole compensation for suspension of its Services and obligations under this agreement.
101. The Company will not suspend the Services where the Customer disputes the unpaid invoice. The Company will not charge the Customer for the Services during the period for which they are suspended.

Termination

102. This Agreement may be terminated by either party forthwith by giving **30 days' notice in writing** to the Company if either party shall become subject to receivership, bankruptcy, administration, liquidation, or arrangement with its creditors or otherwise commits a breach of the Agreement which the party serving the notice reasonably considers is not capable of remedy; or that the other party has continued in any breach of the Agreement for more than 30 days after being warned in writing of such breach; or that the Customer does not make payments in accordance with the Company's payment terms, the Company reserves the right to terminate the Agreement with immediate effect by written notice to the Customer.
103. Unless the Customer has a right to end the Agreement immediately, the Agreement will not end until 30 days after the day on which the Customer contacts the Company. The Company will refund any advance payment made for Services by the Customer which will not be provided to it. For example, if the Customer tells the Company it wants to end the Agreement on 4 February the Services will stop on 3 March. The Company will only charge the Customer for Services up to 3 March and will refund any sums paid in advance for Services after 3 March.
104. Termination of the Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.
105. Upon termination of the Agreement, the Company may set off against any debt owed by the Customer to the Company, or the amount of any loss and/or damage the Company reasonably assess as resulting from the termination of the Agreement, any sums otherwise due to the Customer.

106. Any obligation or liability of the Company under this Agreement shall be suspended and unenforceable by the Customer whilst the Customer is in default of the terms of payment under this Agreement or any other of the Customer's obligations to the Company whether arising under this Agreement or not and shall so remain until such default is remedied to the reasonable satisfaction of the Company.

No Assignment

107. Neither party shall assign, transfer or otherwise dispose of this Agreement or any rights or duties hereunder without the prior written consent of the other.

No Partnership

108. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

Third Party Rights

109. Any person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

Severance

110. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

Forbearance

111. No forbearance indulgence time or relaxation on the part of either party of the terms or conditions of the Agreement shall in any way effect the rights or powers of either party under this Agreement or be deemed to be a waiver by either party of any breach by the other of any term of this Agreement or any subsequent breach.

Force majeure

112. Neither party shall be under any liability for failures or delays attributable to causes beyond its control or be deemed to be in breach of this Agreement which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than one month, either party may terminate this Agreement by written notice to the other party. Such circumstances beyond a party's control will include but

are not limited to the following: riots, terrorist attacks, flood, high winds, lightning strikes, static discharge, mains power interruption and telephone line.

113. In such circumstances as envisaged in clause 115 above, any fees due to the Customer up until the date on which performance of this Agreement became impossible shall be paid to the Company upon presentation of an invoice in accordance with Schedule B.

Entire Agreement

114. This Agreement, together with the Schedules and any subsequent duly signed agreed amendments and the Company's terms and conditions constitute the entire agreement and understanding between the parties. Any and all previous discussions, representations, promises, quotes, proposals, understandings and agreements made in anticipation of the execution of this Agreement are merged into and superseded by this Agreement and shall be without further effect.

Notices

115. All notices under this agreement shall be in writing and shall be deemed to be duly given if delivered by hand in which case service will be deemed to be effected upon delivery at the Parties' principle place of business by 5pm on a business day or the day of delivery or by email in which case service will be deemed to be two days after the day on which it is transmitted.
116. Where legal proceedings are initiated any notices or court forms will be posted by pre-paid first class registered post to the other party at the principle place of business or any other address nominated by that party. If any such notice is sent by pre-paid first class registered post it shall be deemed properly served on the second normal working day following its posting. If delivered by hand it shall be deemed properly served if delivered in Normal Business Hours if before 5pm and acknowledged in writing upon service by a Director or the Secretary of the recipient party if a Company (or in the case of a sole trader by him and in the case of a partnership by a partner). Service by email shall only apply where both parties are legally represented and indicate a willingness to accept service in this way.

Dispute Resolution

117. The Company shall in good faith attempt to settle any dispute arising from this Agreement but if the dispute cannot be resolved the parties agree to use a jointly appointed, neutral mediator within 14 days to assist in facilitating resolution of the dispute and to agree a date for the mediator to start the process. This process shall be strictly confidential and without prejudice to the rights of either party in any future proceedings. Any agreement shall be considered binding in good faith.

Governing Law and Jurisdiction

118. This Agreement shall be governed and construed in accordance with the laws of England and Wales and the High Court of Justice in London shall be the exclusive court of jurisdiction.

SIGNED for and on behalf of the Company:

Signature:

Full Name:

Title: Director

SIGNED for and on behalf of the Customer:

Signature:

Full Name:

Title:

Schedule A: Scope of Services

3equals1 Design Ltd will provide the following Services, which are detailed below: [examples only given below in square brackets and highlighted in yellow for you to amend as you need for each new contract]

- Workplace consultancy
- Workplace strategy
- Workplace interior design
- Workplace furniture consultancy (on project basis)
- project management services.

In particular, we will [liaise with the Customer in developing the look and feel of the Site, design, develop and deliver the Site in ## phases in accordance with our Project Plan, and provide the Services, provide on-site and off-site consultancy; provide strategic advice and solutions, and will produce reports to you at the end of each month setting out the results of the Services undertaken.]

These Services are described in more detail as follows:

Services – Interior Design

- [Design best fit interior space in accordance with our discussions
- co-ordinate the services of the Professional Team;
- give instructions to the Professional Team as necessary to co-ordinate the services of the Professional Team;
- schedule the activities of the Professional Team to comply with the Programme; and
- notify the Client of any failure by a member of the Professional Team to comply with the Programme; and
- notify the Client if the Project is delayed or is likely to be delayed, setting out the cause of the delay and its likely duration.]

Services – Additional

Services - Other Project Services:

Other projects may include providing the Customer with any or all of the following on a project basis throughout the

Term: #####

Schedule B: Fees

[To be drafted by the Company on a case by case basis as desired. Examples given below. You can set out your fees as you prefer]

1. Interior design Fees: £5,500 + VAT (where applicable)

Project Fees: Such fees as to be mutually agreed between the parties where services are provided by the Company to the Customer in addition to those Services provided under this Agreement. The Project Fees which will be agreed in advance of the Project commencing between the parties on a case by case basis, will be invoiced and payable on issuing of invoices as agreed between the parties or on the Company's standard term

Visits made at the specific request of the Company outside Normal Business Hours, for example for emergency assistance. Normal Business Hours are defined as: 9am to 6pm Monday to Fridays excluding UK public holidays.

Work arising from accidental or abnormal use or misuse of the Services or errors caused by the Customer or third parties.

Any repairs necessitated by a breach of any of the conditions of this Agreement by the Customer.

- a. The Company shall issue an invoice for 50% of the project cost + VAT in advance of providing the Service(s).
- b. The Company shall issue a [monthly] VAT invoice in respect of the Fees, and the Customer shall pay to the Company the Fees set out in such Company's invoice within 14 days of the date of the Supplier's invoice.
- c. All Fees are exclusive of VAT.

The Company's applicable hourly rates are as set out below:

Director: £

Consultant: £

Assistant: £

Schedule C: PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. PROCESSING BY THE PROVIDER

1.1 SCOPE

All personal data relating to the Customer collected by the Company from which the Company can identify the Customer may be recorded electronically and used in accordance with the Data Protection Legislation.

The Company may pass on the information to third parties but only to the extent that it is permitted under applicable data protection legislation. By ordering any services or signing up to our mailing list the Customer agrees to such use and processing of the Customer's information. If the Customer believes that the Company is storing details relating to the Customer and that these are incorrect, please write to the Company at its business address and the information will be corrected as soon as possible or removed from our database as the Customer requests unless required to be held for any legitimate business reason, relating to any contract with the Company or there is some other legal obligation which means that the Company has to keep the information.

1.2 NATURE

The Company will process (including, as applicable to the Processor Services and the instructions described above (Customer's Instructions), collecting, recording, organising, structuring, storing, altering, retrieving, using, disclosing, combining, erasing and destroying) Customer Personal Data for the purpose of providing the Processor Services and any related technical support to Customer in accordance with these Data Processing Terms.

It is however anticipated that for Workplace Strategy, Workplace Consultancy and Workplace interior design services that no personal data of the Customer's employees, contractors and agents will be required to be held but will instead be anonymised to provide a generic overview of workspace use by the Customer's employees and visitors, i.e. that it can no longer be associated with you, for research and/or statistical purposes in which case we may use this information indefinitely without further notice to you.

1.3 PURPOSE OF PROCESSING

For purposes of identification, billing and marketing, the Company will collect that data and will also hold onto it for its own use in the business of the Company, processing orders, administration and future changes to improve and develop its services, as well as for marketing, advertising and promotional purposes. The Company may also use the information or parts of it to occasionally notify the Customer about the Company's events, promotions or related activities that the Customer may find useful.

1.4 DURATION OF THE PROCESSING

We will only retain your personal data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

The Company shall however generally maintain records and documentation relating to the Agreement and Services for a period not exceeding 6 years from the date of completion. Such documents may be required to be reviewed by the Company's auditors from time to time.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

By law we have to keep basic information about our customers (including Contact, Identity, Financial and Transaction Data) for six years after they cease being customers for tax purposes. This also helps us, for example, in the event that there is a complaint about our Services.

The Company will retain the Data Subject information for as long as necessary under the legal bases as identified in the table below or to comply with any legal obligation on the Company's part. The Company will review annually the data it holds to establish whether it continues to have the right to process it. Should such a right fail to continue to apply the Company will cease from processing such data. Data may be retained thereafter in order to comply with any legal obligations which may arise.

2. TYPES OF PERSONAL DATA

Type of information collected.	Purpose[s]	Legal basis for processing
Data Subject's name, address, telephone numbers, e-mail address(es).	Managing the Data Subject's relationship with the Company. Mail shot and marketing purpose.	Performing the Company's contract with the Data Subject. Consent. The Company will seek the Data Subject's explicit consent in writing. The Data Subject may withdraw their consent at any time via email, letter or similar method used to obtain the Data Subject's consent.

Type of information collected.	Purpose[s]	Legal basis for processing
Gender.	Provision of adequate facilities for Data Subject's employees.	Performing the Company's contract with the Data Subject in particular to make sure that the Company's workplace services succeed in providing sufficient and suitable facilities (including changing rooms and toilets) for each gender.
Photos and videos of the Data Subject	To assist with understanding and carrying out the Workplace strategy and interior design services in the Customer's workplace. Also to promote the Company on its website and marketing activities.	Performing the Company's contract with the Data Subject. Consent. The firm will seek the Data Subject's explicit consent in writing. The Data Subject may withdraw their consent at any time email or letter or similar method used to obtain the Data Subject's consent.
Bank account details or payment details	To pay, be paid, or to refund monies.	To fulfil the contract between the Firm and the Data Subject. Any receipt or transfer of funds will be via recognised secure payment systems. The Company will securely destroy any financial information once used and no longer needed other than required by law.
Other...	Other...	Other...

3. CATEGORIES OF DATA SUBJECT

Customers (including their identifiable employees)